

Application No. 09/942,893  
Amendment dated May 17, 2006  
Reply to Office Action of March 13, 2006

**REMARKS**

**Status Of Application**

Claims 1-20 are pending in the application; the status of the claims is as follows:

Claims 1, 3, 4, 13, 15, and 16 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,801,251 B1 to Kawaoka et al. (“Kawaoka”).

Claims 8-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,907,353 to Okauchi (“Okauchi”).

Claims 2 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawaoka in view of U.S. Patent No. 6,122,411 to Shen et al. (“Shen”).

Claims 5, 6, 17, and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawaoka in view of Okauchi.

Claims 7 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawaoka, Okauchi, and further in view of Shen.

Claims 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Okauchi in view of Shen.

Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawaoka.

**Claim Amendments**

Claims 1 and 13 have been amended to more particularly point out and distinctly claim the invention. These changes do not introduce any new matter.

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**35 U.S.C. § 102(e) and (b) Rejections**

The rejection of claims 1, 3, 4, 13, 15, and 16 under 35 U.S.C. § 102(e) as being anticipated by Kawaoka is respectfully traversed based on the following.

Kawaoka shows a system for organizing a number of images in an image storage file (Fig. 3) stored in a memory card 5. Each image is associated with a seating code for an event, such as a wedding. The images can be synthesized into a composite image including images of multiple objects (A7, A8 and A9) as shown in Fig. 16 (col. 12, line 36 – col. 13, line 50).

In contrast to the cited references, claim 1 includes:

a controller which controls the image picked up by the image pick-up element so as to pick up a plurality of images different in photographing condition in response to a shutter start command;

an image memory which temporarily stores said plurality of images picked up by said image pick-up element;

an image-number-specifying device which specifies the number of images to be used for creating a composite image from among said plurality of images stored in said image memory; and

an image composer which creates said composite image by composing images of said number of images specified by said image-number-specifying device.

In response to the arguments presented in Applicants' last response, the Office Action states:

Applicant argues with regards to claims 1 and 13 that Kawaoka does not show or suggest "a controller" that controls the image picked up by the image pick-up element so as to pick up a plurality of images of an object different in photographing condition. The Examiner respectfully disagrees. Kawaoka clearly shows CPU 55 (figure 7) that controls the image taking apparatus so as to pick up a plurality of images of different objects in different photographing condition.

Applicants respectfully disagree with this analysis of the reference. CPU 55 is in the image synthesizer 9, which only receives images via memory card 5 (see Figure 2). Although no image pick-up element is discussed in Kawaoka, presumably there is an image pick-up element in digital camera 1 (Figure 2). However, there is no connection between image synthesizer 9 and digital camera 1 by which CPU 55 could control “the image picked up by the image pick-up element so as to pick up a plurality of images different in photographing condition.” Therefore, CPU 55 does not meet the limitations of claim 1.

In addition, the Office Action states:

Applicant argues with regards to claims 1 and 13 that Kawaoka teaches picking only images of multiple objects being composed into an image include separate image spaces (Fig. 15) for the images of each object but does not teach picking up a plurality of images of an object different in photographing condition. The Examiner respectfully disagrees.

Applicant’s specification does not describe taking the images of the same object being synthesized. (Page 2, ¶ 3)

The Examiner is correct that the specification does not use the specific term “object” in describing a photographing operation. However, in response to one depression of the shutter start button (S1 of Figure 5), steps S14 through S17 (Figure 6) are repeated until the number of photographs that can be stored in RAM is reached (¶ [0048]-[-0050]). Finally:

In S20, the specified image data is read out and subjected to the multiplex image-processing by the image composer 50. Subsequently, in S21, a single composite image to which the multiplex-image processing was executed is recorded in the recording media 6 and the routine returns to S1 for the next photographing. (¶ [0052])

As all of the photographs are triggered off of one shutter command, the photographs must generally be of one object, scene or situation. However, so that support for the claim limitation is absolutely clear, claim 1 has been amended to indicate that the plurality of images is picked-up in response to one shutter command.

Kawaoka does not describe in detail how each of the images it synthesizes are picked-up. However, given that the object of Kawaoka is images of several people in a way that is associated with their seating position (see Figure 4), it is reasonable to assume that one image is picked-up for each shutter command.

In summary, the cited references do not show or suggest “a controller” that controls “the image pick-up element so as to pick up a plurality of images in response to a shutter start command” and “an image-number-specifying device which specifies the number of images to be used for creating a composite image of the object from among said plurality of images.” To anticipate, a reference must show, expressly or inherently, every limitation of the claim. MPEP §2131. Therefore, the cited references do not anticipate claim 1. Claims 3 and 4 are dependent upon claim 1, and thus include every limitation of claim 1. Therefore, claims 3 and 4 are also not anticipated by the cited references.

Also in contrast to the cited references, claim 13 includes:

- a controller which controls the image picked up by the image pick-up element so as to pick up a plurality of images different in photographing condition in response to a shutter start command;
- an image memory which temporarily stores said plurality of images picked up by said image pick-up element;
- an image specifying device which specifies images to be used for creating a composite image of the object from among said plurality of images stored in said image memory; and
- an image composer which creates said composite image by composing the images specified by said image specifying device.

As noted above, the cited references do not show or suggest “a controller” that controls “the image picked up by the image pick-up element so as to pick up a plurality of images of an object different in photographing condition in response to a shutter start command” and “an image specifying device which specifies images to be used for creating a composite image of the object from among said plurality of images.” Therefore, the cited references do not anticipate claim 13. Claims 15 and 16 are dependent upon claim

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13, and thus include every limitation of claim 13. Therefore, claims 15 and 16 are also not anticipated by the cited references.

Accordingly, it is respectfully requested that the rejection of claims 1, 3, 4, 13, 15, and 16 under 35 U.S.C. § 102(e) as being anticipated by Kawaoka be reconsidered and withdrawn.

Claims 8-10 have been canceled.

### **35 U.S.C. § 103(a) Rejections**

The rejection of claims 2 and 14 under 35 U.S.C. § 103(a), as being unpatentable over Kawaoka in view of Shen, is respectfully traversed based on the following.

Shen shows a camera capable of taking high resolution or low resolution images (col. 3, lines 6-10). If memory space is too low to take a high resolution picture (S112), it is determined if there is enough space for a low resolution picture (S118). If so, the resolution is automatically set to low resolution (S120).

As noted above, Kawaoka does not show or suggest picking-up multiple images in response to a shutter start command, where “an image-number-specifying device which specifies the number of images to be used for creating a composite image of the object from among said plurality of images.” Shen also does not show or suggest these limitations. Claim 2 is dependent on claim 1 and thus includes every limitation of claim 1. Therefore, the cited references do not show or suggest every limitation of claim 2 and do not support a *prima facie* case for obviousness of claim 2.

Similarly, claim 13 includes a controller that controls “an image pick-up element... to pick up a plurality of images of an object different in photographing condition in response to a shutter start command” and “an image specifying device which specifies images to be used for creating a composite image of the object from among said plurality

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of images stored in said image memory.” Claim 14 is dependent upon claim 13. Therefore, the cited references do not support a *prima facie* case for obviousness of claim 14.

Accordingly, it is respectfully requested that the rejection of claims 2 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Kawaoka in view of Shen, be reconsidered and withdrawn.

The rejection of claims 5, 6, 17, and 18 under 35 U.S.C. § 103(a), as being unpatentable over Kawaoka in view of Okauchi, is respectfully traversed based on the following.

Okauchi shows a camera in which a ‘normal’ or ‘high-quality’ mode can be selected. In normal mode, a single image is picked up (col. 4, line 37 – col. 5, line 50). In high-quality mode multiple images are picked up (col. 5, line 51 – col. 9, line 67). Okauchi’s obtains the high-quality image by composing the images with a pixel shift method. In one case, Okauchi shows a process in which four images are picked up with images shifted by a 0.5-pixel pitch by controlling a variable-angle prism. In another case, nine images are picked up with images shifted by a 0.33-pixel pitch (col. 9, lines 21-51). The number of images picked up is determined by the peak value of the focus evaluation value (col. 9, lines 7-10). Therefore, the number of images picked up is determined by the physical characteristics of the lens during image pick up (col. 8, lines 59 – col. 9, line 6).

Neither Okauchi nor Kawaoka, individually or in combination, show or suggest a “controller which controls the image picked up by the image pick-up element so as to pick up a plurality of images different in photographing condition in response to a shutter start command,” “an image memory which temporarily stores said plurality of images picked up by said image pick-up element” in combination with “an image-number-specifying device which specifies the number of images to be used for creating a composite image of the object from among said plurality of images stored in said image memory” as provided in claim 1. Claims 5 and 6 are dependent upon claim 1, and thus include every limitation

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of claim 1. Therefore, the cited references, individually or in combination, do not show or suggest every limitation of claims 5 and 6.

Similarly, claim 13 includes “a controller which controls the image picked up by the image pick-up element so as to pick up a plurality of images different in photographing condition in response to a shutter start command,” “an image memory which temporarily stores said plurality of images picked up by said image pick-up element” and “an image specifying device which specifies images to be used for creating a composite image of the object from among said plurality of images stored in said image memory.” Claims 17 and 18 are dependent upon claim 13, and thus include every limitation of claim 13. Therefore, the cited references, individually or in combination, do not show or suggest every limitation of claims 17 and 18.

Accordingly, it is respectfully requested that the rejection of claims 5, 6, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Kawaoka in view of Okauchi, be reconsidered and withdrawn.

The rejection of claims 7 and 19 under 35 U.S.C. § 103(a), as being unpatentable over Kawaoka, Okauchi, and further in view of Shen, is respectfully traversed based on the following.

Neither Okauchi nor Kawaoka, individually or in combination, show or suggest a “controller which controls the image picked up by the image pick-up element so as to pick up a plurality of images different in photographing condition in response to a shutter start command,” “an image memory which temporarily stores said plurality of images picked up by said image pick-up element” in combination with “an image-number-specifying device which specifies the number of images to be used for creating a composite image of the object from among said plurality of images stored in said image memory” as provided in claim 1. As noted above, Shen also does not show these limitations. Claim 7 is dependent upon claim 1, and thus includes every limitation of claim 1. Therefore, the

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cited references, individually or in combination, do not show or suggest every limitation of claim 1.

Similarly, claim 13 includes “a controller which controls the image picked up by the image pick-up element so as to pick up a plurality of images different in photographing condition in response to a shutter start command,” “an image memory which temporarily stores said plurality of images picked up by said image pick-up element” and “an image specifying device which specifies images to be used for creating a composite image of the object from among said plurality of images stored in said image memory.” As noted above, Shen also does not show these limitations. Claim 19 is dependent upon claim 13, and thus includes every limitation of claim 13. Therefore, the cited references, individually or in combination, do not show or suggest every limitation of claim 19.

Accordingly, it is respectfully requested that the rejection of claims 7 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Kawaoka Okauchi, and further in view of Shen, be reconsidered and withdrawn.

Claims 11 and 12 have been canceled.

The rejection of claim 20 under 35 U.S.C. § 103(a), as being unpatentable over Kawaoka is respectfully traversed based on the following.

As noted above, Kawaoka does not show or suggest “a controller” that controls “the image picked up by the image pick-up element so as to pick up a plurality of images of an object different in photographing condition in response to a shutter start command” and “an image specifying device which specifies images to be used for creating a composite image of the object from among said plurality of images.” Claim 20 is dependent upon 13, and thus includes every limitation of claim 20. Therefore, the cited references do not show or suggest every limitation of claim 20 and the cited references do not support a *prima facie* case for obviousness of claim 20.

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Accordingly, it is respectfully requested that the rejection of claim 20 under 35 U.S.C. § 103(a) as being unpatentable over Kawaoka be reconsidered and withdrawn.

**CONCLUSION**

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

This Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a fee, other than the issue fee, is due, please charge this fee to Sidley Austin LLP Deposit Account No. 18-1260.

If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee,

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and not submitted herewith should be charged to Sidley Austin LLP Deposit Account No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

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